

 NORFOLK Department of Police	Operational General Order - 740: Mentally Ill Persons		
	Office of Preparation: Strategic Management Division (ram)		
	CALEA:	41.2.7	
	VLEPSC:	08.03	
LEGAL REVIEW DATE:	9-15-2014	PRESCRIBED DATE:	9/18/14
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Purpose (VLEPSC OPR.08.03,b) (CALEA 41.2.7)

This order establishes guidelines for the detention and transportation of individuals, who appear to be mentally ill, require hospitalization, and who present an imminent danger to themselves or others because of mental illness, but who do not voluntarily seek treatment.

Policy

Officers shall seek appropriate medical treatment for individuals who may suffer from mental illness and who do not voluntarily seek treatment; however, officers shall, using their discretion, enforce all laws and protect themselves and others when dealing with individuals who may be mentally ill. Given the unpredictable and sometimes violent nature of the mentally ill, officers should never compromise their safety or the safety of others when dealing with individuals displaying symptoms of mental illness. Since mental illness is a medical condition, those individuals who are mentally ill and voluntarily seek treatment and have no transportation may be transported by paramedics or police officers to the nearest hospital emergency room or mental health assessment center. Officers do not need to stand-by for individuals voluntarily seeking treatment.

Supersedes:

1. G.O. OPR-740, dated May 14, 2009
2. Any previously issued order conflicting with this order

Order Contents:

- I. Officer Responsibilities
- II. Transportation of Mentally Ill Persons
- III. Assisting Norfolk Community Services Board Crisis Counselors
- IV. Training

I. Officer Responsibilities (VLEPSC OPR.08.03.c)(CALEA 41.2.7.a/b/c)

- A. When an officer who, (see Attachment B, Field Guide: Police Response to Persons (Adults and Juveniles) with Mental Illness) based upon his/her observations or the reliable reports of others, has probable cause to believe a person (adult or juvenile) is mentally ill, requires hospitalization and presents an imminent danger to himself or others as a result of mental illness but does not voluntarily seek treatment, the officer shall take the following actions:
1. Detain the person until a mental evaluation by a Norfolk Community Services Board (NCSB) crisis counselor can be completed. The person may, if deemed necessary, be restrained (i.e., handcuffed, etc.) and/or taken into custody based on safety requirements as determined by the officer. Virginia Code authorizes detention/custody for a period of up to eight hours (see Attachment A, Reference 1). This emergency custody is permitted regardless of the immediate availability of an NCSB crisis counselor.
 - a. Officers shall adhere to the provisions of G.O. OPR-120: Use of Force and G.O. OPR-150: Forced Entry.
 - b. As appropriate, officers shall report in accordance with G.O. OPR-140: Special Incident Reports (SI).
 2. Determine whether the mental evaluation should be made at the detained person's location, at an emergency room, or other mental health assessment center. Officers shall not transport a person with a possible mental illness to any other facility/location (i.e., the patrol divisions) for evaluation. Factors bearing on this determination shall include, but are not limited to:
 - a. Person's demeanor (e.g. cooperative or combative).
 - b. Potential for harm if the person remains at the scene.
 - c. Strength of the officer's belief that the person needs hospitalization.
 - d. The likely effect on others (i.e., privacy issues, continuing source of agitation, environmental conditions, etc.) of remaining at the scene vs. transporting the person to an emergency room.
 - e. Knowledge that the person has a history of mental illness with the propensity for violence.

3. Notify the telecommunicator as soon as practical that a mental evaluation is required so the event can be updated in CADS. In accordance with G.O. OPR-510: Radio Communications, advise the Police Operations Center (POC) to notify NCSB of the need for a mental evaluation. Provide the name and social security number of the subject (if available), the location where the evaluation is needed, and describe the circumstances of the detention so that NCSB can send a crisis counselor. If the officer has access to, and can safely use, a telephone, he/she may contact NCSB directly to relay information, history of mental illness and propensity for violence.
4. Abide by all provisions of G.O. OPR 210: Transporting Prisoners, if the person is to be transported to an emergency room.
5. Maintain continuous observation of the individual until the mental evaluation has been completed and the NCSB crisis counselor determines the person's mental status to prevent any self-inflicted harm, harm to others, or damage to property.
 - a. If the NCSB crisis counselor determines that the individual does satisfy the criteria for a Temporary Detention Order (TDO), is mentally ill, requires hospitalization, and presents an imminent danger to himself or others, the officer shall maintain custody and may transport the subject to the nearest emergency room or mental health assessment center until the NCSB crisis counselor has had an opportunity to obtain the issuance of a TDO, provided that the total period of detention does not exceed eight hours. (See Attachment A, Reference 2). If a mentally ill person is committed to a local treatment facility that the NCSB crisis counselor has identified so the TDO can be issued, officers may proceed to the location where the TDO is generated to wait for the paperwork.
 - b. If the NCSB crisis counselor determines that the individual's mental status does not satisfy the criteria for a TDO, the person should be released and, if necessary, returned to the location where he/she was taken into custody. The officer has the discretion to decide whether the individual should be returned to the exact location where the detention occurred, some other location (e.g., a relative's or friend's home in Norfolk), or be released at the location of the evaluation. The primary criterion for this decision shall be the potential for harm if the person is returned to the location of the detention.
6. Transport the person as set forth in Section II below, and execute the TDO issued by a judge or magistrate.

If the person is transported by the Norfolk Sheriff's Office (NSO), the TDO shall be delivered to deputies when custody is transferred.

7. Release the individual from custody, if no TDO is issued within eight hours after initial detention, even when the NCSB crisis counselor has determined that the statutory criteria for detention exist. Officers have the discretion to return him/her to the location of initial detention, some other location (e.g., a relative's or friend's home in Norfolk), or to leave the person at the emergency room or mental health assessment center. (If, for example, the person was detained at the scene of a confrontation and returning that person to that location is likely to result in further dispute or harm, the officer may elect not to do so).
8. Nothing in this order is intended to alter the responsibility of officers to make arrests whenever there is probable cause to believe that a criminal offense is being or has been committed.
 - a. If a criminal offense is committed in an officer's presence, he/she is obligated to enforce the law and keep the peace. However, when a mental illness is suspected, officers should act with restraint, use common sense, and exercise discretion so that unnecessary harm to officers, other citizens and detainees can be avoided. Medical treatment, or attempts to obtain medical treatment, should be completed prior to charging and incarcerating a mentally ill person.
 - b. If there is probable cause for criminal charges against a person and he *does not* qualify for a TDO after an evaluation by a crisis counselor, the officer may bring the person before the magistrate. An officer does not have to wait until the eight hour time limit has elapsed prior to charging the person. The arresting officer shall convey to the booking deputy the circumstances surrounding the individual's conduct so that proper placement within the jail maybe made. In addition to testifying as to the probable cause for the charges, the officer shall brief the magistrate on the indications of mental illness.
 - c. In the event that a detective or officer determines that a suspect in a crime, that is likely to be prosecuted by the Office of the Commonwealth's Attorney, is mentally ill and may require committal for the illness, the detective or officer shall contact a supervisor who will consult with the on-duty Commonwealth's Attorney for guidance on the course of the investigation. The responsible detective or officer may consult with an NCSB clinician and determine the need to seek a TDO.

- d. If an individual suspected of mental illness is charged with a criminal offense, standard procedures for arrest will be followed, and the eight hour limit for emergency custody of persons with suspected mental illness shall not apply.

II. Transportation of Mentally Ill Persons

The following transportation responsibilities are the result of consensus reached between the Norfolk Police Department, the NCSB, and the Norfolk Sheriff's Office (see Attachment A, Reference 3).

- A. Local Facilities - Individuals committed by a TDO to a local facility shall be transported to the facility by Norfolk police officers.
- B. Non-Local Facilities - Individuals committed by a TDO to a non-local facility shall be transferred to the custody of the Norfolk Sheriff's Office at an agreed location for transportation by NSO personnel to the non-local facility. To arrange for non-local facility transportation, the officers shall request desk personnel at the POC Desk to contact the Sheriff's Office Team Commander at 664-4759. If a non-local facility requires a medical clearance, officers shall transport the individual to the hospital, complete the medical screening, and then coordinate the transfer of custody to deputies.
- C. Detainees in Custody - An individual already in custody at a local facility or in the City Jail for whom a TDO is issued, shall be transported by NSO personnel. If NSO personnel are not available, Norfolk officers shall transport the person to a local facility.

III. Assisting Norfolk Community Services Board Crisis Counselors

- A. Telecommunicators shall dispatch one or more officers to provide protection for NCSB personnel, when requested.
- B. Officers assisting NCSB personnel with mental evaluations shall provide physical security for them.
- C. Officers shall be guided by the mental status determinations of NCSB crisis counselors and by NCSB determinations whether to seek the issuance of TDOs.
- D. Officers may only enter a private residence without permission of the owner or person in charge under emergency circumstances, such as attempted suicide or the imminent threat of violence. Officers will follow procedures set forth in G.O. OPR-150: Forced Entry, and report in accordance with G.O. OPR-140: Special Incident Reports (SI), as required.

IV. Training (CALEA 41.2.7.d/e)

- A. As part of initial mental health response training, all newly hired personnel will receive instruction regarding the handling of mentally ill persons.
- B. At least every three years, all personnel will receive refresher training regarding encounters with mentally ill person/persons. All training evolutions (basic/introductory training, CIT 40 hour core training, and update training) will be the responsibility of the department's CIT coordinator.

Definitions

Mental Illness:

Any of the various conditions characterized by impairment of an individual's normal cognitive, emotional, or behavioral functioning, and caused by social, psychological, biochemical, genetic, or other factors, such as infection or head trauma.

Mental Health Crisis:

A person is in crisis when he or she is unable to cope with internal or external stimuli creating an inability to function at their normal level, thus creating a risk of harm to themselves or others.

Respondent:

The individual alleged to be mentally ill, emotionally distraught, mentally disturbed, or is otherwise suffering a mental health crisis.

Petitioner:

The individual with the information, or "Probable Cause," that the respondent needs help. The petitioner can be a police officer.

Local facility:

A hospital or psychiatric facility in Chesapeake, Norfolk, Portsmouth, Suffolk or Virginia Beach.

Non-Local facility:

A hospital or psychiatric facility in locations other than Chesapeake, Norfolk, Portsmouth, Suffolk, or Virginia Beach (e.g., Hampton, Newport News, Williamsburg, etc.)

ECO:

Emergency Custody Order – empowers law enforcement officers who based on their observations or reliable reports of others, the authority to take an individual into custody who has a mental illness and also has a substantial likelihood that they will cause serious harm to themselves or others and is in need of hospitalization and is unwilling or incapable of volunteering for hospitalization or treatment. An ECO can be issued by a magistrate or can be “paperless” when initiated by an officer. ECOs are limited to 8 hours with no extensions allowed.

TDO:

Temporary Detention Order – when probable cause exists to believe that an individual has a mental illness and also has a substantial likelihood that they will cause serious harm to themselves or others and is in need of hospitalization and is unwilling or incapable of volunteering for hospitalization or treatment, a TDO may be issued by a magistrate. Once issued, a TDO must be executed within 24 hours and has a duration of 72 hours upon execution.

Crisis Intervention Team (CIT) Officer:

An officer who has received and completed specialized training in recognizing symptoms of mental illness and identifying persons suffering a mental health crisis. CIT officers possess communication skills to assist in the de-escalation of potentially dangerous situations. CIT officers should be the “first responders” for calls for service involving persons with mental illness or in mental health crisis.

CIT Coordinator:

A police supervisor selected by the Chief of Police to coordinate all CIT related training to include roll call training and training bulletins related to police interaction with the mentally ill. The CIT Coordinator will also be responsible for acting as a Department liaison with mental health agencies and service providers.

Related Documents

1. G.O. OPR-120: Use of Force
2. G.O. OPR-140: Special Incident Reports (SI)
3. G.O. OPR-150: Forced Entry
4. G.O. OPR 210: Transporting Prisoners
5. G.O. OPR-510: Radio Communications
6. G.O. OPR-745: Hospitals and Psychiatric Facilities

Attachments

- A. Virginia Code References
- B. Field Guide: Police Response to Persons (Adults and Juveniles) with Mental Illness

Virginia Code References

Reference 1:

§37.2-808(G), Emergency custody; issuance and execution of order.

Reference 2:

§37.2-809(B), Involuntary temporary detention; issuance and execution of order.

Reference 3:

§37.2-810, Transportation of person in the temporary detention process.

Field Guide: Police Response to Persons (Adults and Juveniles) with Mental Illness

Purpose (CALEA 41.2.7)

It is the purpose of this field guide to provide guidance to law enforcement officers when encountering persons with mental illness or who may be suffering a mental health crisis, in accordance with the Code of Virginia which governs civil mental detention procedures, and the commitment of minor respondents. All officers will follow the policies set within the general order when dealing with individuals that display symptoms of a mental disability, illness, injury, or crisis.

Definitions

- A. Mental Illness - Any of the various conditions characterized by impairment of an individual's normal cognitive, emotional, or behavioral functioning, and caused by social, psychological, biochemical, genetic, or other factors, such as infection or head trauma.
- B. Mental Health Crisis - A person is in crisis when he or she is unable to cope with internal or external stimuli creating an inability to function at their normal level, thus creating a risk of harm to themselves or others.
- C. Respondent - The individual alleged to be mentally ill, emotionally distraught, mentally disturbed, or is otherwise suffering a mental health crisis.
- D. Petitioner - The individual with the information, or "Probable Cause," that the respondent needs help. The petitioner *can be* a police officer.
- E. Clinician - A Norfolk Community Services Board (NCSB), Emergency Services employee (ES), or a designee of that agency, who is skilled in the diagnosis and treatment of mental illness and used to assess the need for hospitalization.
- F. ECO Form - Three (3) part (white), Civil Mental Emergency Custody Order, (Form DC-492) - This form is to be completed by the magistrate when probable cause has been presented by the petitioner. The ECO can also order the respondent to obtain emergency medical evaluation or emergency medical treatment prior to pre-admission screening. This form is good for up to 8 hours from its time of issuance.
- G. TDO Form - Four (4) part (white), Civil Mental Temporary Detention Order, (Form DC-894 A (for adults) or 894 for juveniles) - This form is completed by the magistrate after the clinician provides the magistrate with probable cause that the respondent is in need of hospitalization. The TDO can also order the respondent to obtain emergency medical evaluation or emergency medical treatment prior to placement in a detention facility. The TDO is good for 24 hours from the time of issuance.
- H. Mental Health Assessment Center - A mental health facility that is both legally willing and able to provide sufficient security to accept a transfer of custody of mentally ill respondents from police officers during the ECO or TDO process.

Responsibility of the Department

It is important to remember that the vast majority of persons suffering mental illness will have little to no contact with police. However, handling individuals who are known or suspected to be mentally ill or who may be suffering a mental health crisis carries the potential for violence. This will require an officer to make difficult judgments about the mental state and intent of the individual, and requires special attention and understanding to effectively and legally deal with the person so as to avoid violence or other potential issues. Given the unpredictable and sometimes violent nature of some individuals, officers should never compromise or jeopardize their safety or the safety of others when confronted with individuals displaying symptoms of emotional instability or mental illness. In the context of enforcement and related activities, officers shall be guided by the Code of Virginia regarding the detention of the mentally ill or subjects suffering a mental health crisis. Officers should utilize discretion when encountering possibly mentally ill subjects who are engaging in or have committed minor crimes (Ex: trespassing, public intoxication, disorderly conduct) when deciding whether criminal charges or mental health diversion is the most appropriate course of action.

Departmental Training (CALEA 41.2.7.d/e)

As part of initial mental health response training, all newly hired personnel will receive instruction regarding the handling of mentally ill persons, to include basic Crisis Intervention Team concepts and de-escalation techniques. At least every three years, all personnel will receive refresher training regarding encounters with mentally ill person/persons. All training evolutions (basic/introductory training, CIT 40 hour core training, and update training) will be the responsibility of the department's CIT coordinator.

Recognizing Abnormal Behavior (CALEA 41.2.7.a)

Mental illness is often difficult for even the trained professional to define in a given individual. Officers are not expected to make judgments of mental or emotional capacity but rather to recognize behavior that is potentially destructive and/or dangerous to self or others,

The following are generalized signs and symptoms of behavior that may suggest mental illness or indicate a person suffering a mental health crisis, although members should not rule out other potential causes such as reactions to, or withdrawal from, drugs or alcohol or temporary emotional disturbances that may be motivated by a given situation:

1. Delusions or hallucinations (hallucinations can be audio or visual)
2. Nonsensical speech patterns and disorientation
3. Severe depression and/or severe agitation
4. Suicidal talk or acts
5. Violent talk or behavior resulting from mental illness
6. Social withdrawal
7. Dramatic changes in eating or sleeping habits
8. Strong feelings of anger
9. Increased levels of anxiety

10. Increased inability to cope with daily problems and activities
11. Denial of obvious problems and/or many unexplained physical problems
12. Abuse of drugs and/or alcohol

Signs of mental illness/mental health crisis may manifest themselves in several ways, to include verbal clues, behavioral clues, or some environmental clues:

1. Degree of Reactions -Mentally ill persons or persons suffering a mental health crisis may show signs of strong and unrelenting fear of persons, places, or things. The fear of people or crowds, for example, may make the individual extremely reclusive or aggressive without apparent provocation.
2. Appropriateness of Behavior -An individual who demonstrates extremely inappropriate behavior for a given context may be emotionally ill. For example, a motorist who vents his frustration in a traffic jam by physically attacking another motorist may be emotionally unstable,
3. Extreme Rigidity or Inflexibility - Emotionally ill persons may be easily frustrated in new or unforeseen circumstances and may demonstrate inappropriate or aggressive behavior in dealing with the situation.
4. Mentally ill persons may exhibit one or more of the following characteristics:
 - a. Abnormal memory loss related to such common facts as name or home address (although these may be signs of other physical ailments such as injury or Alzheimer's disease);
 - b. Delusions, the belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ.") or paranoid delusions ("Everyone is out to get me.");
 - c. Hallucinations of any of the live senses (e.g., hearing voices commanding the person to act, feeling one's skin crawl, smelling strange odors, etc.);
 - d. The belief that one suffers from extraordinary physical maladies that are not possible, such as persons who are convinced that their heart has stopped beating for extended periods of time;
 - e. Extreme fright or depression.
5. Mentally ill persons may show environmental clues of mental illness by living in extreme filth, failing to practice basic hygiene and personal care, or failing to seek medical care for obvious injuries. If emergent medical care is required officers will arrange for emergency medical service transport immediately.

Calls for service where a mental health crisis is suspected

Officers dispatched to a call concerning a possibly mentally ill subject/or a person suffering a mental health crisis, should gather as much information as possible, to include but not limited to:

1. What were the actions of the persons in question
2. Was a crime committed, and if so, what kind
3. Is/are the person(s) armed

4. Were there any acts of violence
5. Did the person(s) take any drugs and/or drink alcohol recently
6. Name, age, and/or mental condition/diagnosis of the subject(s), if known
7. History of mental illness/ Possible medications the subject(s) may be on
8. Relationship of the subject(s) to the caller
9. Subject(s) treating physician and/or social worker if known

At least two officers shall be sent to any such case involving a possible mentally ill subject to ensure safety of the officers, mental health counselors, and any other persons involved in the situation.

Police Management of the Mentally Ill (CALEA 41.2.7 c)

Police personnel should adhere to the following when handling those persons who appear to be in need of treatment for mental issues, may be suffering a mental health crisis, or when the magistrate issues an Emergency Custody Order (ECO) and/or a Temporary Detention Order (TDO).

A minimum of two (2) officers will be present initially during the call to include the entire ECO/TDO process (if issued) for the safety of the officers as well as the safety of the respondent and the community. If during the process, the subject is, and remains non-violent and the officers have no reason to believe or information that the subject has been violent in the past, the primary officer shall have the discretion to determine if the assist officer(s) need to remain during the remainder of the process/encounter.

Mental Health Emergency Custody and Civil Admissions/Mental Health Related Calls for Service (CALEA 41.2.7.b)

CIT officers will not always be available to respond to or to assist with mental health related calls. Therefore, all officers shall be familiar with the civil admissions process as required by law.

The primary officer assigned to any mental health related call for service or encounter shall contact the Norfolk Community Services Board (NCSB) and advise pre-screeners of the circumstances involving an alleged mentally ill person, or a person suffering a mental health crisis. Pre-screeners can then provide further direction or may choose to speak with the respondent, his or her family members, or any party that called police with a concern about the respondent to determine if further action is needed.

Voluntary/Consensual Crisis Intervention Process

Police officers are in no position to deem a person who is exhibiting symptoms of mental illness or is suffering a mental health crisis as capable of making a voluntary informed consent for admission to a treatment facility. Any such determination will be made by a mental health pre-screener. For the purposes of this field guide, a voluntary/consensual commitment process is one in which a respondent is willing to seek treatment voluntarily and volunteers to undergo a mental health assessment by a NCSB clinician. In most cases the family may provide their own transportation to the mental health facility in which the subject is to receive treatment. Police may be called, however, to provide assistance to family members with crisis intervention and with transportation if the family has no transportation of their own.

Revocation of Consent

If officers receive a call for service that begins as a potential voluntary/consensual process, but the subject revokes his or her consent and he or she meets the criteria for emergency custody under §37.2-808 (ECO Process) the officers shall remain with the subject. The officer will contact a NCSB clinician to provide an evaluation. The evaluation shall be designated by the community services board or behavioral health authority who is trained in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department. The officers will then remain with the subject until other officers either relieve them or until the subject is handed over to a proper mental health receiving facility, via a TDO. Officers are not to simply drop off potential patients/mental health consumers at local hospital emergency rooms and leave them unsupervised.

Involuntary Hospitalization Process by an Officer

§37.2-808 provides police officers with the authority to take a person into non-judicial custody for the purpose of a mental evaluation when probable cause exists. A law-enforcement officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a person meets the criteria for emergency custody as stated §37.2-808 G (in the following pages) may take that person into custody and transport that person to an appropriate location to assess the need for hospitalization or treatment without prior authorization. Such evaluation shall be conducted immediately. Officers encountering such persons shall request the assistance of an available CIT officers(s) (if available) who should then take over the case and assist the subject.

Persons requiring mental health pre-screening may be taken into custody via a judicial order otherwise known as an Emergency Custody Order (an issued paper ECO) or a non-judicial order (paperless ECO) as described in the pages following.

Emergency Custody Process and Emergency Custody Orders (§37.2-808)

The Code of Virginia, mandates that the magistrate issuing an emergency custody order shall specify the primary law-enforcement agency and jurisdiction to execute an emergency custody order and provide transportation. As the Norfolk Police Department is the primary law enforcement agency in the City of Norfolk, the Police Department shall execute all emergency custody orders (ECO).

A police officer may take a subject into emergency custody, based upon his or her observation or through the reliable report of others, when he or she has probable cause to believe that any person within his or her judicial district (i) has a mental illness, (ii) and there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (a) cause serious bodily harm to himself or others as evidenced by recent behavior causing, attempting, threatening-harm and other relevant information, if any, or (b) suffer serious harm due to lack of capacity to protect himself from harm or to provide for his basic human needs, (ii) is in need of hospitalization or treatment, and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. Any emergency custody order entered pursuant to this section shall provide for the disclosure of medical records pursuant to § 37.2-804.

A magistrate may issue an Emergency Custody Order based upon the probable cause stated above based upon the sworn citation of any responsible person, treating physician, or upon his own motion.

Officers shall transport a respondent, taken into custody and subject to a judicial or non-judicial emergency custody order, to a hospital emergency room or other designated mental health assessment

center to assess the need for hospitalization or treatment. Where appropriate, a NCSB clinician may also respond to the location of the person being detained for the purposes of conducting an evaluation there. The evaluation shall be made by a person designated by the community services board or behavioral health authority who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

Transportation under §37.2-808 shall include transportation to a medical facility for medical evaluation if a physician at the hospital in which the person subject to the emergency custody order may be detained requires a medical evaluation prior to admission. Nothing herein shall preclude officers from obtaining emergency medical treatment or further medical evaluation at any time for a person in his or her custody as provided in this section.

The person shall remain in custody until a temporary detention order is issued or until the person is released, but in no event shall the period of custody exceed eight hours.

If the clinician chooses not to support the ECO, the primary officer shall either return the person to the location in which he or she was taken into custody or release the person upon their request.

Voluntary Admission Based on Mental Competency after Emergency Custody

There will be occasions when subjects taken before a mental health pre-screener, may be deemed by the screener to be competent to seek voluntary admission to a psychiatric facility or may be deemed a candidate for less restrictive follow-up mental health care and treatment. This will include subjects initially taken into custody pursuant to a judicial order or who may be in non-judicial custody. In such cases, it will be permissible for officers to relinquish control of the subject once the pre-screener has advised officers that they will no longer need to stand by and provided that the officers feel comfortable doing so. It is also permissible for officers to provide a ride back to the site from which the police officer's intervention originated. Prior to clearing the case, the officers will be required to get the name of the mental health pre-screener and add the pre-screener's name to the case comments, and notify their respective on-duty supervisor(s) and advise that they have been cleared by mental health.

Respondents who are in Criminal Custody (CALEA 41.2.7.c)

Officers, who during the course of a criminal investigation, or after the arrest of a criminal suspect, determine that the arrested subject is in need of mental health care and should be evaluated for involuntary hospitalization, shall take the individual directly before a magistrate and present probable cause for an arrest warrant. After the execution of the arrest warrant, the suspect shall be delivered to the Norfolk Sheriff's Department. The arresting officer shall convey to the booking deputy the circumstances surrounding the individual's conduct so that proper placement within the jail may be made.

In the event that a detective or officer determines that a suspect in a crime, that is likely to be prosecuted by the Office of the Commonwealth's Attorney, is mentally ill and may require committal for the illness, the detective or officer shall contact a supervisor who will consult with the on-duty Commonwealth's Attorney for guidance on the course of the investigation. The responsible detective or officer may consult with an NCSB clinician and determine the need to seek a TDO.

Temporary Detention Order Process (§37.2-809)

A magistrate shall issue, upon the sworn petition of any responsible person, treating physician, or upon his own motion and only after an evaluation conducted in-person or by means of a two-way electronic video and audio communication system as authorized in §37.2-804.1 by an employee or a designee of the local community services board to determine whether the criteria for temporary detention, a temporary detention order if it appears from all evidence readily available, including any recommendation from a physician or clinical psychologist treating the person, that the person: (i) has mental illness, and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs;(ii) is in need of hospitalization or treatment; and (iii) is unwilling to volunteer or incapable of volunteering for hospitalization or treatment. The magistrate shall also consider the recommendations of any treating or examining physician licensed in Virginia if available either verbally or in writing prior to rendering a decision.

Any temporary detention order entered pursuant to this section shall provide for the disclosure of medical records pursuant to §37.2-804.2.

Probable Cause for the Issuance of a TDO

When considering whether there is probable cause to issue a TDO, the magistrate may, in addition to the petition, consider:

- Recommendations of any treating or examining physician or psychologist
- Past actions of the person
- Past mental health treatment
- Relevant hearsay
- Affidavits if the witness is unavailable and the affidavit so states
- Any other relevant information

A magistrate may issue a temporary detention order (TDO) without a preceding emergency custody order. A magistrate may issue a temporary detention order without a prior evaluation pursuant to subsection B if (i) the person has been personally examined within the previous 72 hours by an employee or a designee of the local Community Services Board, or (ii) there is a significant physical, psychological, or medical risk to the person or to others associated with conducting such evaluation.

The duration of temporary detention shall be sufficient to allow for completion of the examination required by §37.2-815, preparation of the prescreening report required §37.2-816, and initiation of mental health treatment to stabilize the person's psychiatric condition to avoid involuntary commitment where possible but shall not exceed 72 hours prior to a hearing. If the 72-hour period herein specified terminates on a Saturday, Sunday, or legal holiday, the person may be detained, as herein provided, until the next day that is not a Saturday, Sunday, or legal holiday. The person may be released pursuant to §37.2-813, before the 72-hour period herein specified has run.

Whether a family member of someone known to the respondent has obtained an ECO, or the officer is serving as the petitioner and acting under the authority of the Code of Virginia, the respondent must be brought before a Clinician for a mental health screening. The following details the actions to be taken by officers at the prescreening through the completion of the civil commitment process:

NCSB Clinician Prescreening

- If the clinician determines that the respondent does not need further service, the officers should offer to transport the respondent back to the site of the pickup. The clinician should mark on the original ECO and/or TDO issued, MAGISTRATE'S OFFICE NOTIFIED and return all forms back to the magistrate.
- If the clinician determines that the respondent does need further service, the clinician will call the magistrate and provide probable cause for the issuance of a Form DC-894 (a), a Civil Mental Temporary Detention Order (TDO). The magistrate does not have to issue a TDO even though in the clinician's opinion the respondent is in need of service.
- The TDO must be issued by the magistrate within the 8-hour limit set for the ECO process. The TDO does not have to be in hand within the 8-hour limit, but must merely be signed and available for pickup at the magistrate's office.
- The officers will transport the respondent and all documents to the issuing Magistrate's Office and pick up the TDO, Form DC-894 (a), or they may have another officer pick up the TDO and meet them at a pre-determined location.
- Virginia State code provides that a law enforcement agency transport a respondent to a medical facility for a medical evaluation or treatment when it is requested by a physician in the process of the Emergency Custody Order or it is requested by a physician at the receiving facility in the process of the Temporary Detention Order. The magistrate will note on the Emergency Custody Order (Form DC-492) and Temporary Detention Order forms Form DC-894 (a) if a medical evaluation or treatment is mandated and which facility the respondent is to be transported.
- Many TDO's are issued for elderly patients at medical facilities who are suffering from Alzheimer's/Dementia or age-related brain degenerative diseases. As many of these people may have underlying medical issues, and because officers are not trained to provide medical assistance for any such underlying issue, it is **STRONGLY RECOMMENDED** that a private ambulance service be utilized to conduct transport to the facility designated on the TDO. A private ambulance can be requested through NCBS personnel and/or through the medical facility that requested the TDO.

§37.1-810 Transportation of Person in the Temporary Detention Process

- A. The magistrate issuing the temporary detention order shall specify the law-enforcement agency and jurisdiction that shall execute the temporary detention order and provide transportation (In most cases, this will be the Norfolk Police Department). The magistrate shall specify in the temporary detention order the law-enforcement agency of the jurisdiction in which the person resides to execute the order and provide transportation. However, if the nearest boundary of the jurisdiction in which the person resides is more than 50 miles from the nearest boundary of the

jurisdiction in which the person is located, the law-enforcement agency of the jurisdiction in which the person is located shall execute the order and provide transportation. The order may include transportation of the person to such other medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a law-enforcement officer from obtaining emergency medical treatment or further medical evaluation at any time for a person in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

- B. Assigned officers may lawfully go to or be sent beyond the territorial limits of the county, city, or town in which he or she serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. Law-enforcement agencies may enter into agreements to facilitate the execution of temporary detention orders and provide transportation.

Safety Measures: The officer's responsibility for the custody of the respondent, clinician, medical staff, etc., does not end upon the arrival at the institution. The officer must maintain custody and control of the respondent at all times until the respondent is turned over to the institution. One officer should be responsible for control of the respondent, while the second officer will be responsible for all other business, such as paperwork, interviews, etc., while providing assistance to the first officer when necessary.

Civil Mental Custody Procedure Paperwork that is not Served

ECO not Served

Hand-carry all paperwork to the Magistrate's Office. The magistrate will then notify the petitioner as well as NCSB. If the petition has not expired (96 hours), the petitioner should seek support for the issuance of a new ECO. If the criterion still exists for an ECO, the Community Services Board will ask the magistrate to issue a new ECO. If respondent is located after the ECO has expired, the magistrate must complete a new ECO form. If a new ECO is provided, the police department will again have 4 hours to serve it, but must not exceed the 96 hours total time allowed by the DMH 1006 form. After the 96 hours expire, the petitioner must start the process from the beginning by completing another DMH 1006.

TDO not Served

Hand-carry all paperwork to the Magistrate's Office. The TDO is good for 24 hours or such shorter period as specified in the order and becomes void and shall be returned unexecuted to the Correctional Center Magistrate's Office. It will be the responsibility of the magistrate to contact the Community Services Board to cancel the bed. A new TDO will require that a clinician contact the magistrate's office for issuance of a new TDO.

- a) the person has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, (1) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (2) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs
- b) less restrictive alternatives to involuntary inpatient treatment that would offer an opportunity for improvement of his condition have been investigated and determined to be more appropriate.

Juvenile (Minor) Mental Health Procedures

§ 16.1-338. Parental Admission of Minors Younger than 14 and Non-objecting Minors 14 Years of Age or Older

A minor who is younger than 14 years of age may be admitted to a mental health facility, willing to accept that minor for inpatient treatment, with the request and the consent of a parent. A minor who is 14 or older may be admitted to a mental health facility that is willing to accept them and upon the request and consent of the minor and the minor's parent. Any admission under this code section shall be approved by a qualified mental health pre-screener or professional who has conducted a personal examination of the minor within 48 hours after admission and has made the following written findings:

1. The minor appears to have a mental illness serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment; and
2. The minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment; and
3. If the minor is 14 years of age or older, that he has been provided with an explanation of his rights under this code section as they would apply if he were to object to admission, and that he has consented to admission

(For full text of this code section, refer to §16.1-338.)

§ 16.1-339. Parental Admission of an Objecting Minor 14 Years of Age or Older

A minor who is 14 years of age or older who either objects to admission, or is incapable of making an informed decision, may be admitted to a mental health facility, willing to accept them, for up to 96 hours, pending the review a mental health professional, and upon request of a parent. If admission is sought to a state hospital, the community services board serving the area in which the, minor resides shall provide a pre-admission screening report and shall ensure that the necessary written findings, except the minor's consent, have been made before approving the admission. The pre-screener mental health professional shall prepare a report that shall include written findings as to whether:

1. Because of mental illness, the minor (i) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result as evidenced by recent acts or threats, or (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;
2. The minor is in need of inpatient treatment for a mental illness and is reasonably likely to benefit from the proposed treatment; and
3. Inpatient treatment is the least restrictive alternative that meets the minor's needs. The qualified evaluator shall submit his report to the minor and domestic relations district court for the jurisdiction in which the facility is located.

(For full text of this code section, refer to §16.1-339.)

§ 16.1-340. Emergency Custody - Issuance and Execution of Order of a Minor

A magistrate will issue an Emergency Custody Order (ECO) for a minor, after receiving sworn testimony from the minor's treating physician, his/her parent or, if the parent is not available or is unable or unwilling to file a petition, by any responsible adult, including the person having custody over the minor in detention or shelter care after receiving an order to do so from the minor and domestic relations district

court, or upon his own motion. The ECO will be issued based upon probable cause of the following: (i) because of mental illness, the minor (a) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats, or (b) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusionary thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control; and (ii) the minor is in need of compulsory treatment for a mental illness and is reasonably likely to benefit from the proposed treatment.

Magistrates may also consider a petition for probable cause for an ECO based on (1) the recommendations of any treating or examining physician or psychologist licensed in Virginia, if available, (2) any past actions of the minor, (3) any past mental health treatment of the minor, (4) any relevant, hearsay evidence, (5) any medical records available, (6) any affidavits submitted, if the witness is unavailable and it so states in the affidavit, and (7) any other information available that the magistrate considers relevant to the determination of whether probable cause exists to issue an ECO.

Any minor who is subject the subject of an ECO shall be taken into custody by the designated police agency and transported to a pre-determined screening location to be evaluated to determine whether he or she meets the criteria for a Temporary Detention Order (TDO) pursuant to § 16.1-30.1 and to assess the need for hospitalization or treatment. The evaluation shall be made by a person designated by a pre-screener in the area in which the minor is located who is skilled in the diagnosis and treatment of mental illness and who has completed a certification program approved by the Department.

The magistrate issuing the ECO shall designate a police agency to execute the ECO and provide transportation. There are some cases in which the magistrate may allow for alternate transportation of the minor, subject to the ECO, to include a parent, family member or friend of the minor, a representative of the community services board, the treating physician, or other transportation provider with personnel trained to provide transportation in a safe manner. In cases where an alternative transportation provider has been identified, the magistrate will order the specified police agency to execute the ECO, take the minor into custody, and transport the minor to the transportation provider. Custody will then be transferred to the alternative transportation provider identified in the order. A copy of the ECO will be given to the transportation provider with notes made by the officer as to whom the ECO was given and the ECO will accompany the minor to the identified screening location. Delivery of an ECO to a police officer or an alternative transportation provider and return of an order to the Court may be accomplished electronically or by facsimile. Police or the alternate transportation provider may be required to transport the minor to a medical facility, if necessary or noted on the ECO or requested by the minor's attending physician, to obtain emergency medical evaluation or treatment that shall be conducted immediately in accordance with state and federal law. The magistrate shall order the identified police agency to execute the ECO and, in cases, provide transportation. In cases where the minor has not yet been taken into custody, the identified law enforcement agency may go to where the minor is presently located to execute the ECO and provide transportation.

The police or alternative transportation provider may transfer custody of the minor to the facility or location identified on the ECO facility (i) is licensed to provide the level of security necessary to protect both the minor and others from harm, (ii) is actually capable of providing the level of security necessary to protect the minor and others from harm, and (iii) in cases in which transportation is provided by the YBPD, has entered into an agreement or memorandum of understanding with the police department setting forth the terms and conditions under which it will accept a transfer of custody, provided, however, that the facility or location may not require the police department to pay any fees or costs for the transfer of custody. Officers may lawfully go or be sent beyond the territorial limits of their jurisdiction to any

point in the Commonwealth for the purpose of executing an emergency custody order pursuant to this section,

A police officer who, based upon his observation or the reliable reports of others, has probable cause to believe that a minor meets the criteria for emergency custody as stated in this section may take that minor into custody and transport that minor to an appropriate location to assess the need for hospitalization or treatment without prior authorization. The officer who takes a person into custody may lawfully go or be sent beyond the territorial limits of his/her jurisdiction to any point in the Commonwealth for the purpose of obtaining the assessment. Such evaluation shall be conducted immediately. The period of custody shall not exceed four hours from the time the officers take the minor into custody. However, a magistrate may extend the ECO for 2 hours if he or she finds good cause exists to grant an extension. This extension will be made one time for a period not to exceed two hours. Good cause for an extension includes the need for additional time to allow (i) the community services board to identify a suitable facility in which the minor can be temporarily detained pursuant to § 16.1-340.1 or (ii) a medical evaluation of the person to be completed if necessary.

A police officer who is transporting a minor, who has voluntarily consented to be transported to a facility for assessment or evaluation and who is beyond the territorial limits of the officer's jurisdiction, may take the minor into custody and transport him/her to an identified pre-screening to assess the need for hospitalization or treatment without prior authorization when the officer determines (i) that the minor has revoked consent to be transported and (ii) based upon his observations, that probable cause exists to believe that the minor meets the criteria for emergency custody as stated in this section. The minor shall remain in custody until a Temporary Detention Order (TDO) is issued, until the minor is released, or until the emergency custody order expires. Any family member, as defined in § 37.2-100, employee or designee of the community services board, treating physician, or law-enforcement officer may request the two-hour extension.

If an emergency custody order is not executed within six hours of its issuance, the order shall be void and shall be returned unexecuted to the office of the clerk of the issuing court or, if such office is not open, to any magistrate serving the jurisdiction of the issuing court.

(For full text of this code, refer to § 16.1-340.)

§ 16.1-340.2. Transportation of Minor in the Temporary Detention Process

The magistrate shall identify the police agency to execute the Temporary Detention Order (TDO) and in cases in which transportation is ordered, to be provided by that police agency. However, if the nearest boundary of that police jurisdiction is more than 50 miles from the nearest boundary of the jurisdiction in which the minor is located, the police agency of the jurisdiction in which the minor is located shall execute the order and provide transportation.

Though the magistrate issuing will specify that police execute the order the magistrate may authorize transport by an alternative transportation provider, to include: a parent, family member, or friend of the minor, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner upon determining, following consideration of information provided by the petitioner; the community services board or its designee; the police; the minor's treating physician, if any; or other persons who are available and have knowledge of the minor. The magistrate may notify the proposed alternative transportation provider, either in person or via two-way electronic video and audio or telephone communication system, that the proposed alternative transportation provider is available to provide transportation, willing to provide transportation, and able to

provide transportation in a safe manner. When transportation is ordered to be provided by an alternative transportation provider, the magistrate shall order police to execute the order, to take the minor into custody, and to transfer custody of the minor to the alternative transportation provider identified in the order, with documentation as to whom the minor was transferred and who the TDO was given to. A copy of the TDO will accompany the minor at all times and shall be delivered by the alternative transportation provider to the temporary detention facility. Delivery of an order to a police officer or alternative transportation provider and return of an order to the court may be accomplished electronically or by facsimile.

The TDO may designate that the minor may be transported to any medical facility as may be necessary to obtain further medical evaluation or treatment prior to placement as required by a physician at the admitting temporary detention facility. Nothing herein shall preclude a police officer or alternative provider from obtaining emergency medical treatment or further medical evaluation at any time for a minor in his custody as provided in this section. Such medical evaluation or treatment shall be conducted immediately in accordance with state and federal law.

A police officer may lawfully go or be sent beyond the territorial limits of the county, city, or town in which he serves to any point in the Commonwealth for the purpose of executing any temporary detention order pursuant to this section. The police agency may enter into agreements with other agencies to facilitate the execution of TDOs and provide transportation.

For full text of this code section refer to §16.1-340.2.